



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/905,434	07/13/2001	Timothy B. Main	59159-9	3429

22504 7590 03/17/2004

DAVIS WRIGHT TREMAINE, LLP  
2600 CENTURY SQUARE  
1501 FOURTH AVENUE  
SEATTLE, WA 98101-1688

EXAMINER
----------

HYLTON, ROBIN ANNETTE

ART UNIT	PAPER NUMBER
----------	--------------

3727

DATE MAILED: 03/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/905,434

Applicant(s)

MAIN ET AL.

Examiner

Robin A. Hylton

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,7-11 and 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7-11 and 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

Art Unit: 3727

#### DETAILED ACTION

1. The finality of the previous Office action is hereby vacated. Rejections on the merits follow.

#### ***Claim Rejections - 35 USC § 103***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1,3,4,7-11, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coad et al. (US 4,541,227) in view of Christoffel (CH 187,705) and Lissner (DE 3,416,710).

Coad teaches it is known to use a 30 inch by 16 inch by 10 inch kraft bale bag to pack multiple ten pound bags therein for shipping and storage, the paper bale having a front panel, a back panel, two side panels, and a closed bottom panel, wherein the front wall has a crease proximate the bottom panel and the side panels each has an elongate crease therein. Coad is silent regarding the panels being multi-layered and does not teach an aperture in the back panel and a cut-away portion in the front panel exposing the aperture.

Christoffel teaches it is known to provide a paper bag with an aperture **4** in the back panel and a cut-away portion **5** in the front panel exposing the aperture.

Lissner teaches it is known to use multiple paper layers to construct a bale bag.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of an aperture in the back wall and a cut-away portion in the front wall exposing the aperture to the bag of Christoffel. Doing so would negate the need for clamps and compressors to hold the bale bag open during filling with filled bags.

Additionally, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of a multi-wall structure to the bag of Christoffel. Doing so adds strength to the bag for supporting filled multiple bags therein.

Regarding the dimensions of claims 8-11, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select any specific dimension, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

Art Unit: 3727

4. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 1 above, and further in view of Lawford (AU 113,542).

Coad as modified teaches the claimed bale bag except for ventilation holes in the front and back panels.

Lawford teaches it is known to provide ventilation holes in the front and back panels of the bale bag.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of ventilation holes in the front and back panels of the modified bale bag of Coad. Doing so allows for air-flow through the bale bag to allow the inner bags contents to "breathe" thereby extending the contents' shelf-life.

#### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1,3-5,7, and 20 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703) 872-9306. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top

Art Unit: 3727

of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

8. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. \_\_\_\_\_ is being facsimiled to The U.S. Patent and Trademark Office via fax number (703) 872-7306 on the date shown below:

Typed or printed name of person signing this certificate  
\_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

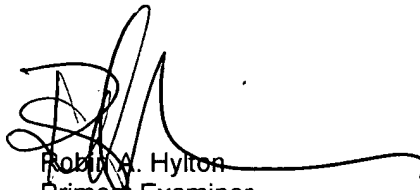
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (703) 308-1208. The examiner works a flexible schedule, but can normally be reached on Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young, can be reached on (703) 308-2572.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Errica Bembry at (703) 306-4005.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.

RAH  
March 16, 2004

  
Robin A. Hylton  
Primary Examiner  
GAU 3727